THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.1063 OF 2005

Dated: 4th April, 2006.

Between:

Venkateswara Saw Mill, rep. by

D. Veera Chary, R/o. Pachunoor. … Petitioner

And

The Divisional Forest Officer,

Karimnagar (West), Karimnagar Dt. … Respondent

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ORDER :

The petitioner – Venkateswara Saw Mill, Pachunoor - was granted a licence under Rule 6 of A.P. Saw Mills (Regulation) Rules, 1969 for running a saw mill at Pachunoor. The respondent – Divisional Forest Officer, Karimnagar (West) issued a show-cause notice dated 24-4-2003 calling upon the petitioner to show-cause as to why the licence of the saw mill should not be cancelled besides forfeiting the security deposit as per the provisions of A.P. Saw Mills (Regulation) Rules, 1969 (for short, 'the Rules') alleging that the petitioner's licence was last renewed upto 31-12-2000 and thereafter the petitioner did not pay the licence fee for the years 2001, 2002 and 2003 and did not get renewed the licence, but running the saw mill without the licence, thus violating sub-rules (1) & (2) of Rule 6 of the Rules.

The petitioner submitted an explanation dated 11-10-2004 stating that he remitted the renewal fee of Rs.2,000/- vide Challan dated 27-12-2000 together with a further sum of Rs.250/- vide Challan dated 27-12-2000 towards penalty for late remittance of renewal fee and submitted an application for renewal of licence fee for the year 2001 to the Forest Range Officer, Karimnagar through Forest Section Officer, Kesavapatnam, however the same was not considered. Thereafter, due to financial and other family problems, he could not make any further application for renewal for subsequent years. Hence, he requested to receive the renewal fee
for the years 2002, 2003, 2004 and 2005 and regularise the licence for the said years and further to renew the licence for the year 2005. In pursuance thereof, the

respondent vide proceedings dated 23-11-2004 informed the petitioner that since the saw mill licence had already lapsed, a fresh licence has to be obtained, however in view of the decision of Supreme Court in W.P.No.202 of 1995 dated 16-11-2002 no State Government or Union Territory can permit opening of any saw mill. Accordingly, the request of the petitioner for regularization of the licence and for renewal of the same for the year 2005 was rejected. Aggrieved by the said order, the present writ petition is filed seeing a declaration that the proceedings of the respondent dated 23-11-2004 are arbitrary, illegal and contrary to provisions of A.P. Saw Mills (Regulation) Rules, 1969.

The contention of the petitioner is that the directions issued by the Supreme Court of India do not come in the way of considering the request of the petitioner for regularization / renewal of the licence since the petitioner has paid the renewal fee together with required penalty in the year 2001 itself which fact has not been denied by the respondents.

The respondent filed a counter-affidavit stating that after expiry of the renewed period of the Saw Mill Licence by 31-12-2000 the Saw Mill owner did not get the Licence renewed for the years 2001, 2002 and 2003 and running the Saw Mill without licence. As per Sub-rules (1) & (2) of Rule-6 of Andhra Pradesh Saw Mills (Regulation) Rules, 1969 and as per amendments made thereunder the licence has lapsed and the Saw Mill owner should apply for a fresh licence. But, the Hon'ble Supreme Court of India on 16-11-2002 in W.P.No.202 of 1995 issued directions to the effect that no State Government or Union Territory of India will permit the opening of any Saw Mill without prior permission of the Central Empowered Committee. Hence, the Writ Petition is misconceived and the relief as prayed for cannot be granted.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Forests appearing for the respondent, and perused the material on record.

Admittedly, the licence of the petitioner was valid only upto 31-12-2000. Even assuming that the petitioner remitted the renewal fee together with the penalty on 27-12-2000 and sought for renewal of his licence for the year 2001, the fact remains that the licence was not renewed and consequently from 1-1-2001 onwards the petitioner has not possessed a valid licence.

As per Sub-rules (1) and (2) of Rule 6 of A.P. Saw Mills (Regulation) Rules, 1969, the licensee is required to submit the renewal application within one month prior to expiry of existing licence and in case no such application was submitted upto 1st December, a late fee of Rs.250/- shall be levied upto February of succeeding year irrespective of duration of delay. If the renewal application is not submitted before the end of February, it will be deemed that the licence has lapsed and the saw mill owner should apply for fresh licence. Consequently, the security deposit available with the licensing authority shall stand forfeited. In the light of the provisions of the statutory rules, it cannot be said that the impugned proceedings are illegal or contrary to law.

However, the objection raised by the respondent under the impugned order, on the basis of the decision of the Supreme Court, to permit the petitioner to revive the saw mill does not appear to be correct and the same was not in conformity with the orders of the Supreme Court.

It is to be noted that the Supreme Court in T.N. GODAVARMAN THIRUMULKPAD v. UNION OF INDIA having considered the scope and object of the provisions of the Forest (Conservation) Act (69 of 1980) in detail held that there was need to constitute a High Power Committee to oversee the strict and faithful implementation of the directions issued therein.

In pursuance thereof, the Central Empowered Committee has been constituted. Thus, the establishment of saw mills is banned without prior permission of the Central Empowered Committee. Since admittedly, such permission of the Central Empowered Committee has not been obtained by the petitioner saw mill, the respondent is not justified in straightaway rejecting the request of the petitioner.

Accordingly, the impugned order to the extent of rejecting the request of the petitioner to revive the saw mill is set aside and the Writ Petition is disposed of with a direction to the respondent to refer the case of the petitioner to the Central Empowered Committee with regard to the permission sought to run a saw mill by the petitioner within a period of four weeks from the date of receipt of this order. In case, clearance is granted by the Central Empowered Committee, the necessary further steps shall be taken and appropriate orders be passed in accordance with law.

The Writ Petition is accordingly disposed of. No costs.

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04th April, 2006.

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